

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE VOLKSWAGEN TIMING
CHAIN PRODUCT LIABILITY
LITIGATION

Civil Action No.: 2:16-cv-02765
(JLL) (JAD)

Motion Date: January 17, 2017

ELECTRONICALLY FILED

ORAL ARGUMENT
REQUESTED

**DEFENDANT VOLKSWAGEN GROUP OF AMERICA, INC.'S NOTICE
OF MOTION TO DISMISS AND TO COMPEL ARBITRATION
PURSUANT TO FED. R. CIV. P. 12(b)(1), 12(b)(6) AND 9(b)**

PLEASE TAKE NOTICE that pursuant to Local Rule 7.1, Defendant Volkswagen Group of America, Inc. shall move pursuant to Rule 12(b)(1), 12(b)(6) and 9(b) before the Hon. Jose L. Linares, U.S.D.J., on January 17, 2017 (or on such other date as the Court shall schedule), at the United States District Court, District of New Jersey, 50 Walnut Street, Newark, New Jersey, for an Order (1) dismissing Plaintiffs' Fraud (Count I), Negligent Misrepresentation (Count III) and Consumer Fraud (Counts VIII-XXXIV) claims for lack of subject matter jurisdiction pursuant to Rule 12(b)(1); (2) directing plaintiffs Hosier, Swihart, Piumarta, Nadiri, Kane, Zielezinski, Ellahie, Blanchard and Smith to arbitrate their remaining claims; and (3)

dismissing with prejudice all remaining claims pursuant to Rules 8(a) and 12(b)(6) for failure to satisfy the requisite pleading standards and to state a claim upon which relief can be granted; OR, in the event the Court concludes it has jurisdiction over Counts I, III and VIII-XXXIV, for the entry of an Order (1) directing plaintiffs Hosier, Swihart, Piumarta, Nadiri, Kane, Zielezinski, Ellahie, Blanchard and Smith to arbitrate their claims; and (2) dismissing with prejudice all remaining claims pursuant to Rules 8(a), 9(b) and 12(b)(6) for failure to satisfy the requisite pleading standards and to state a claim upon which relief can be granted.

Please Take Further Notice that in support of this motion, Defendant shall rely upon the accompanying Memorandum of Law and Declarations of Robert Cameron, including the exhibits submitted thereto. A proposed form of Order is also submitted.

Dated: December 12, 2016

Respectfully submitted

CHASE, KURSHAN, HERZFELD
& RUBIN, LLC

By: /s/ Jeffrey L. Chase

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